

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

Petitioners.

CHARGE NO.: 2009CH1439
EEOC NO.: 05-09-0193-8
ALS NO.: 09-0551

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge who is requesting review of the Department’s action shall be referred to as the “Petitioner.”

2. On December 17, 2007, the Petitioners entered into a residential lease with the Landlords. The lease stipulated that rent would be due on the first of the month, with the tenancy to begin on February 1, 2008. Also, although it was not stipulated in the lease, the Landlords provided the Petitioners with a parking space and a storage locker.
3. On February 20, 2008, the Petitioners moved into an apartment on the Landlords' property (the "Premises"). The Petitioners allege they could not move in sooner because the elevator at the Premises was not functioning.
4. The Petitioners were unable to access their storage locker until July 2008 because a prior tenant's belongings were still in the storage locker. The Petitioners also could not access their parking space until October 2008 because up until then, a van was illegally parked in the space.
5. On October 6, 2008, the Landlords commenced eviction proceedings against the Petitioners due to their failure to make timely rental payments.
6. On December 4, 2008, the Petitioners voluntarily vacated their apartment. The Petitioners left behind some personal property that did not fit into their moving van.
7. After the Petitioners had vacated the apartment, the Landlords entered the apartment, removed the personal property the Petitioners had left behind, and changed the locks on the apartment.
8. The Petitioners contend the Landlords changed the terms, conditions, and privileges of the Petitioners' real estate transaction because of their race by not prorating their rent. The Petitioners believed that due to their delay in moving into the apartment, their rent should have been due on the 20th of each month, as opposed to the 1st of each month. The Petitioners further argue the Landlords subjected them to discrimination by denying them immediate access to their parking and storage spaces; by denying the Petitioners' use of a garbage dumpster; by changing the locks on the Petitioners' apartment and removing their personal belongings from the apartment; and by harassing the Petitioners to pay their rent on the 1st of each month.
9. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence because the Landlords articulated a non-discriminatory reason for its actions, namely that the Landlords were involved in a landlord-tenant dispute with the Petitioners over their non-payment of rent, and there was no substantial evidence of pretext.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioners' charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's

investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, * 2 (March 7, 1995)(1995 WL 793258).

In this case, the Commission finds no substantial evidence of a nexus between the Landlords' alleged conduct and the Petitioners' race. In particular, there is no substantial evidence the Landlords treated similarly situated tenants outside of the Petitioners' protected class more favorably under similar circumstances. See Turner v. Human Rights Commission, 177 Ill.App.3d 476 (1st Dist. 1988).

As to Counts A, C, & D, wherein the Petitioners alleged their access to their parking and storage spaces were delayed; they were denied use of a garbage dumpster, and that the locks on their vacated apartment were changed after their personal property had been removed, respectively, there is no evidence the Landlords engaged in this conduct because of the Petitioners' race. As to Count D, in the wake of eviction proceedings commenced by the Landlords against the Petitioners, the Petitioners chose to voluntarily vacate their apartment. Thereafter, the Landlords changed the locks and removed the Petitioners' remaining personal property from the apartment. There is no evidence to substantiate the Petitioners' claim that the Landlords took this action because of the Petitioners' race rather than based upon the Landlords' reasonable belief that the Petitioners had vacated the apartment.

The Commission finds there is no merit to the Petitioners' claims regarding their rental payments, as alleged in Counts B & E. The Petitioners signed a lease to pay rent on the 1st of the month. Therefore, the Landlords had a right to expect payment of rent on the 1st of the month, and to thereafter demand payment of rent when rent was contractually due. There is no substantial evidence the Landlords were motivated by racial bias when demanding rent according to the terms of the lease.

Accordingly, it is the Commission's decision that the Petitioners have not presented any evidence to show the Respondent's dismissal of their charge was not in accordance with the Act. The Petitioners' Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioners' charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Meir Rotstein, Haim Gabi, and Avi-Tzur Partners, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 28th day of April 2010.

Commissioner Marti Baricevic

Commissioner Robert S. Enriquez

Commissioner Gregory Simoncini